

## **RULE 4:8. Third Party Practice**

### **4:8-1. Third Party Brought in by Defendant**

- **(a) Procedure for Bringing in Third Party; As of Right or on Order.** Within 90 days after the service of the original answer, a defendant, as third-party plaintiff, may file and serve a summons and third-party complaint, together with a copy of plaintiff's complaint, upon a person not a party to the action who is or may be liable to defendant for all or part of the plaintiff's claim against defendant and may also assert any claim which defendant has against the third-party defendant involving a common question of law or fact arising out of the same transaction or series of transactions as the plaintiff's claim. The third-party plaintiff shall serve a copy of the third-party complaint upon the plaintiff within 5 days after service thereof upon the third-party defendant. After the expiration of such 90 day period, a defendant may serve such summons and third-party complaint upon a third-party defendant only by leave of court, on notice to the plaintiff, annexing a copy of the proposed third-party complaint to the notice of motion.
- **(b) Procedure After Third Party Is Joined.** The third-party defendant shall assert defenses to the third-party plaintiff's claim as provided by R. 4:6 and shall assert counterclaims against the third-party plaintiff and cross-claims against the other third-party defendants as provided by R. 4:7. The third-party defendant may assert against the plaintiff any defenses which the third-party plaintiff has to the plaintiff's claim. The third-party defendant may also assert any claim against the plaintiff arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff. The plaintiff, within 45 days after being served with the third-party complaint, or, if the defendant has sought leave, within 45 days after being served with the order granting such leave, may amend the complaint to assert any claim against the third-party defendant arising out of the transaction or occurrence that is the subject matter of plaintiff's claim against the third-party plaintiff; thereafter plaintiff may so amend the complaint only by leave of court on notice to the parties to the action. The third-party defendant thereupon shall assert defenses as provided by R. 4:6 and counterclaims and cross-claims as provided by R. 4:7. A third-party defendant may proceed under this rule against any person not a party to the action who is or may be liable to the third-party defendant for all or part of the claim made in the action against the third-party defendant. The mandatory joinder provisions of R. 4:30A shall apply to all affirmative claims assertible pursuant to this rule, and discovery shall proceed as provided by R. 4:24-1.

**Note:** Source-R.R. 4:14-1; paragraph (b) amended July 21, 1980 to be effective September 8, 1980; paragraph (a) amended July 15, 1982 to be effective September 13, 1982; paragraphs (a) and (b) amended July 13, 1994 to be effective September 1, 1994; paragraphs (a) and (b) amended June 28, 1996 to be effective September 1, 1996; paragraph (b) amended July 10, 1998 to be effective September 1, 1998; paragraph (b) amended July 5, 2000 to be effective September 5, 2000.

### **4:8-2. Third Party Brought in by Plaintiff**

A plaintiff against whom a counterclaim is asserted may cause a third party to be brought in under circumstances which under R. 4:8-1 would entitle a defendant to do so and in the manner prescribed by R. 4:8-1.

**Note:** Source-R.R. 4:14-2; amended July 13, 1994 to be effective September 1, 1994.